

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB STORY**, on January 31, 2001 at 8:00 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Bob Story, Chairman (R)
Rep. Ron Erickson, Vice Chairman (D)
Rep. Keith Bales (R)
Rep. Joe Balyeat (R)
Rep. Gary Branae (D)
Rep. Eileen Carney (D)
Rep. Larry Cyr (D)
Rep. Rick Dale (R)
Rep. Ronald Devlin (R)
Rep. John Esp (R)
Rep. Gary Forrester (D)
Rep. Daniel Fuchs (R)
Rep. Verdell Jackson (R)
Rep. Jesse Laslovich (D)
Rep. Trudi Schmidt (D)
Rep. Butch Waddill (R)
Rep. Karl Waitschies (R)
Rep. David Wanzenried (D)

Members Excused: Rep. Roger Somerville, Vice Chairman (R)
Rep. Joan Andersen (R)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Branch
Rhonda Van Meter, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 367, 1/29/2001
Executive Action: HB 205

HEARING ON HB 378

Sponsor: REPRESENTATIVE MICHELLE LEE, HD 26, Livingston

Proponents: Patti Keebler, Montana AFL-CIO
Irene Thuerer, SARA
Warren McGee, SARA
James Green, Montana-Wyoming Association of
Railroad Passengers
Malger Magilke, Montana-Wyoming Association of
Railroad Passengers
Fran Marceau, United Transportation Union
Gary Winslow
Sue Winslow
Charlotte Thomas
Russ Ritter, Montana Rail Link
Carl Schweitzer, Bozeman Chamber of Commerce

Opponents: Stuart Doggett, Montana Innkeepers Association

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 2.4}

REP. LEE said this bill sets up a southern Amtrak route and uses bed tax money to fund the operating study. She discussed an amendment and said the amount has been decreased because Senator Burns and Senator Baucus have been able to negotiate with the Amtrak officials, and they are now willing to completely pay for the feasibility study. **EXHIBIT(tah25a01)**, **EXHIBIT(tah25a02)** This study would include operating statistics, revenue, cost, and capital costs. There are seven counties and who have passed resolutions to encourage the legislature to do what is necessary to make this project a reality. With \$2000 to fund the study, Montana may get the southern Amtrak route back. This route would provide 60 high paying jobs and help small town economies.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 7.6}

Fran Marceau, State Director, United Transportation Union, said this bill could provide Montanans with another option for travel and a safer mode of transportation. It also has the potential to provide 60 \$35,000-60,000 per year jobs that include benefits. Amtrak is a good employer and have very little turnover.

Patti Keebler, Montana AFL-CIO, said they have supported the re-establishment of the southern Amtrak route. They support the addition of good paying jobs and an affordable transportation system.

James Green, President, Montana-Wyoming Association of Railroad Passengers, said this project would provide revenue to Montana. There is approximately 70,000 people who get off of the train in Whitefish, and 60% of them are going skiing. There are five ski areas along the southern route. The State of Washington fruit growers are trying to get their products shipped east and south. That revenue plus the mail contracts presently being negotiated they feel would pay for the route.

Russ Ritter, Washington Corporation/Montana Rail Link, said they have 1100 employees across Montana and would be happy to accommodate passenger service on the southern route. It is another mode of transportation to give people opportunities to travel. This could also be used by the university students, as many students attending school in Havre use Amtrak.

Carl Schweitzer, Bozeman Chamber of Commerce, said this idea would perhaps bring more tourists to the Bozeman area.

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 17.8}

Stuart Doggett, Montana Innkeepers Association, said he supports the idea of the southern Amtrak route but opposes the bill for several reasons. The text is unclear as to what the funds are exactly for. The history of the bed tax was enacted to promote tourism. This change allocates money for a specific transportation study and takes away dollars from tourism promotion and other programs. It is more appropriate that the Department of Transportation address this issue.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 20.5}

REP. BALYEAT asked if it is feasible that the southern Amtrak route will ever be financially self supporting. **Russ Ritter** said the current operation of Amtrak is being subsidized by the taxpayers. An attempt to decrease the Northern route to 3-4 days per week was met with tremendous opposition so Amtrak went back to seven days per week. It is suspected this would probably take some subsidy. **REP. BALYEAT** asked if this bill would set aside \$1000 per year for the biennium, or \$2000 total, for a study of

southern Amtrak feasibility. **REP. LEE** said that is correct. **REP. BALLYEAT** asked if the sponsor knows the amount it costs to process a bill through the legislative process. **REP. LEE** said it costs \$2000 to draft a bill. **REP. BALLYEAT** asked if the bill could be amended to take out the \$2000 and possibly raise the money. **REP. LEE** said if \$2000 is too much, she is willing to drop it out and just get the account. There has already been a tremendous amount of support, so the money can be raised, but the state account is needed.

REP. CARNEY asked what needs to be done to get the southern Amtrak route going. **Russ Ritter** said the tracks are in good condition and must be maintained according to Federal Railroad Association standards. They would possibly have to upgrade stops to accommodate people. There has not been a study to address this, but that is what this bill would address.

REP. ERICKSON asked how much is necessary in the account for the job to get done. **REP. LEE** said the nature of this account is to fund the engineering and operating study. Amtrak has agreed to pay for almost all of it, but they need a state commitment, and it was felt the minimum needed as the commitment was \$2000.

REP. DEVLIN asked if the money would come from the refunds the state agencies pay into the bed tax. **Matthew Cone, Travel Montana, Department of Commerce**, said the amount would come after the money has been distributed to the Department of Revenue and general fund. **REP. DEVLIN** asked if the funding would come from the money reimbursed to the state general fund directed for special purposes. **Matthew Cone** said no. The state will take care of the state first.

REP. SCHMIDT asked for an explanation of the study. **James Green** said nobody really knows for sure what Amtrak will do. The tracks, depots, and other little things have to be looked at. **REP. SCHMIDT** asked who pays for the depot repairs when they are needed. **James Green** said usually the county and city of where they reside.

REP. ANDERSEN asked if the train would go into Billings. **James Green** said that until they meet with Amtrak it is unknown. **REP. ANDERSEN** asked what the status of the Billings depot is. **James Green** said they are renovating the building to have weddings and other functions, but it could be open to passenger service.

REP. SCHMIDT asked if Mr. Green had other comments. **James Green** said he wants Amtrak to be self sufficient, as well as the airlines. On the railroads, the dispatchers keep track of the

trains, and they are paid by the railroad. The air traffic controllers are paid by the Federal government, which is a subsidy to the airlines.

REP. CARNEY asked for information on what was included in the resolutions passed and what needs to be done to the depots along the route. **REP. LEE** said the resolutions were to urge support for the route going from Denver to Spokane. Part of the study is deciding where they will stop along the way. Local communities have opportunities through Federal assistance to design and implement strategies to adjust or bring about changing economy and focusing on public works.

REP. ESP asked if bus travel is subsidized. **James Green** said nothing is paid to Greyhound but there is a lot of money spent on the highways. **REP. ESP** asked if bus companies pay fuel taxes. **James Green** said yes. **REP. ESP** asked if air traffic control is a matter of public health and safety. **James Green** said yes, as much as the dispatchers on the railroad. **REP. ESP** asked if the air traffic is more intricate than the railroad in terms of overall scope. **James Green** said without air traffic controllers there would be a problem. Without train dispatchers there would be a mess with trains running into each other. **REP. ESP** asked if the airline industry pays fuel tax and other taxes that directly support the air traffic control services. **James Green** said they pay taxes on fuel and have other fees.

REP. BALES asked if the other states the route would go through are setting up similar accounts. **REP. LEE** said Wyoming is looking at the same legislation but want to wait until after the Amtrak meeting. Oklahoma lost their rail service, and it took them 14 years to get it back. They paid for their engineering and operating study out of the state's pocket, which was \$100,000.

CHAIRMAN STORY asked if the sponsor has talked with the Department of Transportation about administering this account. **REP. LEE** said no. **CHAIRMAN STORY** said they will probably charge to do that and a fiscal note might be needed. He asked if it was the intention that this would be a two-year revenue. **REP. LEE** said it was intended only until 2003. **CHAIRMAN STORY** asked if Montana Rail Link has been approached to contribute to the feasibility study. **Russ Ritter** said they have not, but the dye has been cast in this committee. **CHAIRMAN STORY** asked how long it would take to operate a passenger train on the southern route from Seattle to Denver. **Russ Ritter** said it would probably be an overnight trip. Even though passenger trains have priority over freight, there are other concerns. Considering the quality of

the track, Amtrak has their own inspections for safety. The regulations of railroads are very high. **James Green** said it would be 30-32 hours.

REP. SCHMIDT asked if a firm commitment would be made to contributing to the \$2000. **James Green** said he has a board to go through but would be more than happy to bring it up with them.

CHAIRMAN STORY asked what regions this route would run through. **Matthew Cone** said Yellowstone Country, Gold West Country, and Glacier Country, with a potential for Custer Country. **CHAIRMAN STORY** asked if these regions have the ability to make grants for these kinds of studies. **Matthew Cone** said the regulations do not currently allow this. Within Travel Montana there is a tourism infrastructure grants program, but the \$2000 would be too small for the minimum. **CHAIRMAN STORY** asked what the minimum amount is. **Matthew Cone** said \$20,000.

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 19.3}

REP. LEE said Greyhound buses pay taxes because it is an on-road use. Trains are an off-road use, so they will not pay the same kinds of taxes. Doing a study through the tourism program is not a realistic expectation, as Amtrak has the market based network analysis in place and use different costing models. This study is needed to determine numerous things. This is part of Amtrak's effort to be self sufficient on the Federal level by FY 2003. The citizens of Montana desire this study and southern route and have voiced that they will support it once it is here. At the very least the account needs to be formed.

HEARING ON HB 367

Sponsor: **REPRESENTATIVE TOM FACEY, HD 67, Missoula**

Proponents: **Jani McCall, City of Billings**
 Gordon Morris, Montana Association of Counties
 Brentt Ramharter, City of Missoula
 Alec Hanson, League of Cities & Towns
 Joe Mazurek, City of Great Falls
 Charles Brooks, Yellowstone Board of County
 Commissioners

Opponents: **None.**

Opening Statement by Sponsor:***{Tape : 1; Side : B; Approx. Time Counter : 27.1}***

REP. FACEY said this bill puts newly constructed Class 4 property on the tax rolls the day it is occupied for its intended use. Currently the cities, counties, and school districts of Montana are providing services to new construction. These entities could use the money for their current budget year. **EXHIBIT (tah25a03)** The handout shows the growth in specific counties in one year. Half of this number is what is being discussed for these counties. This is a fairness issue, because fire protection and other services are being provided immediately. In this proposed process, someone would not lose their rights for appeal. A good amendment would be to put a bottom limit on the new improvements. The Department of Revenue currently appraises new construction between November and February, but this process could be spread throughout the year.

Proponents' Testimony:***{Tape : 2; Side : A; Approx. Time Counter : 21}***

Brentt Ramharter, City of Missoula, said right now in Montana new homes, commercial businesses, and buildings that are constructed and occupied are exempt from property taxes through the end of that calendar year. All tax supported services are made available to this new construction during the first year before the property is subject to taxation. Property should be assessed and taxed at a prorated rate for the year. This legislation is in place in neighboring states who also have property tax caps, and he gave an example of an occupancy tax in Idaho. This bill would give a modest level of compensation for the tax that is missed during that first year of occupancy.

Alec Hanson, League of Cities & Towns, said people are occupying a home and essentially not paying any property taxes but at this time receiving services. If someone moves into a home in February, they still have to pay power, phone, and other expenses for services received. This bill is an equitable payment of property taxes for services received on new property.

Jani McCall, City of Billings, said this bill is equitable and fair. She read part of a budget memo to the Billings city council and mayor from the city administrator regarding a budget crisis for providing services. With the passage of this bill, there would be additional revenue that would continue on an ongoing basis.

Gordon Morris, Director, Montana Association of Counties, said this bill would also include tax exempt property that goes to non-exempt within a year.

Joe Mazurek, City of Great Falls, said everyone who receives services should pay their fair share. This bill is asking a new member of a community to pay once improvements are occupied.

Charles Brooks, Yellowstone County Board of County Commissioners, said this is an equity and fairness issue and urge favorable consideration.

Opponents' Testimony: None.

Informational Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 15.7}

Dolores Cooney, Department of Revenue, said she is here to answer questions.

Mary Whittinghill, Montana Taxpayers Association, said this bill would only apply to Class 4 property, and they would like an amendment to address this. They would also like a limitation of the dollar amount of the improvement, because being taxed on adding a deck is not the intent of the bill according to the sponsor. Another amendment they would like to see is that when properties are put on the books as partially complete as of January 1, they will have received an assessment notice. If this is completed during the course of the year, the individual will then have another tax notice sent. They want to make sure this process is clarified. Consideration should also be made to the 30-day balance due.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 18.5}

REP. BALYEAT asked if the sponsor had thought about the fairness issue when no proration is done when the taxpayer loses. **REP. FACEY** said he would be happy to amend that into the bill. **REP. BALYEAT** asked if this bill might actually have a negative impact on creating jobs by deterring new businesses, and used the proposed ethanol plant as an example. **REP. FACEY** said there is an obligation to look at needs and services that we want to provide to the citizens of Montana and balance it with a reasonable tax policy that can deliver these needs and services. The tax breaks given to places such as the ethanol plant are specific and we get specific things back from them. This bill

has two parts. One is allowing cities and counties to expend money being used for services. The other is tax relief for the same property owners in the future. **REP. BALLYEAT** asked if the sponsor wants to make sure the legislature controls which businesses get special relief versus all businesses getting general relief in the first year. **REP. FACEY** said we need to look at what type of tax base we are going to get and what we will get back in return.

REP. DEVLIN asked if a tax break is offered to new and expanding businesses, which it currently is, would the figures in Exhibit 3 would go down. **Dolores Cooney** said it could be assumed they would go down because the appraised value would have a certain amount of abatement. **REP. DEVLIN** asked if the new and expanding businesses currently being given tax breaks were taken out of the figures they would mostly include residential. **Dolores Cooney** said the new and expanding business currently applies to both commercial and residential.

REP. FORRESTER asked what the additional costs would be to appraise this property sooner. **Dolores Cooney** said a fiscal note has been prepared but not distributed yet. In order to accomplish the work called for in this bill, there would be an increase in services the Department of Revenue would have to provide.

REP. WAITSCHIES asked for clarification on an who would choose between an "or" in the bill. **REP. FACEY** said if someone is living in the home but siding is not on the house, the value of the house would be less, but the house would be complete.

REP. ERICKSON asked if the current process used in Montana is also occurring in other states. **Dolores Cooney** said they could look at surrounding states to see what process they are using.

REP. DALE asked if the taxpayer would have to come up with the money to pay the property tax rather than including it in their Escrow account. **Brentt Ramharter** said financial institutions are aware that during the first year of occupancy there is no tax, so there is no assessment into the Escrow account.

REP. SCHMIDT asked for clarification of Representative Waitschies' question. **Dolores Cooney** said the way the assessment process works today in Montana is the general assessment date is January 1 of each year. Whatever is owned or standing as of January 1 is assessed for that year. If a building is 50% complete, 50% of the total value of that building is assessed for that year. **REP. SCHMIDT** asked if the "or use" in the bill would be what was just mentioned. **Dolores Cooney** said Montana does not

currently have a use test in the assessment process. Occupancy does not have a bearing. It is the market value of the property as it stands on January 1. This bill alters this by inserting use test.

REP. BALYEAT asked if property is assessed on January 1 of each year, what happens if a house has burnt down, is damaged, or the market value has gone down. **Dolores Cooney** said if a structure is damaged by a natural disaster, there is a specific provision in the statute which allows for an application of natural disaster relief, which would prorate the taxes for that year. A base year is set for each cycle that the property appraisal is in. The market value is set as of that date. Under current statute, it does not adjust for increases or decrease in market value until the next cyclical reappraisal. **REP. BALYEAT** asked if taxes are paid for a full year on a building that is torn down to build something in its place. **Dolores Cooney** said if the building was standing on January 1 and torn down in July, the assessment would have gone out in April for the building. **REP. BALYEAT** asked if it is fair to charge someone for a full year when a building is torn down but to also say we will charge you a partial year for the new building. **REP. FACEY** said the property is assessed and the bill being sent in the spring, but the bill is for the previous tax year. If a house burns down, no taxes are paid from the day it burns down.

REP. BALES asked for clarification from the sponsor that the taxes are being paid for the previous year, because if this is true then someone should not be charged for something that came on in the middle of the year and maybe even prorated back for the part of the year it was not on. **REP. FACEY** said he spoke incorrectly. **REP. BALES** asked for a comment as to why there was no opposition to a tax break for the proposed ethanol plant in Great Falls when that could have a significant impact. **Joe Mazurek** said the only break the proposed plant will get is for the taxes on the improvements. They will still pay real estate taxes and for the services they receive in terms of sewer and water. This is a project that will cost Great Falls in terms of services but will also have a larger benefit across the state in terms of agriculture production. Maybe this is a little inconsistent, but when you look at the greater good of the benefit to the state and the community, this is appropriate.

REP. JACKSON asked what the 18 months regarding taxes paid is referring to and if Exhibit 3 is accurate. **Dolores Cooney** said the assessment is based on January 1. The property tax assessment goes out in April. The first half of the tax bill on that assessment is due in November. The second half is due in May of the following year. Regarding the chart, she has not had

time to look at it to be able to give an opinion. **REP. JACKSON** asked what the period of time is that someone would not have to pay taxes on or that we would be missing. **Dolores Cooney** said you were to start a house in July, that house would be assessed the following year on January 1. Everyone is treated in the same manner. If a house was 30% complete on January 1, you would be assessed for the 30%.

REP. SCHMIDT asked if the sponsor was amenable to amendments mentioned by Mary Whittinghill. **REP. FACEY** said he supports those amendments fully. **REP. SCHMIDT** asked if the counties are supporting these also. **REP. FACEY** said he thinks they would like the passage of this bill.

REP. WAITSCHIES asked if this is a complete change in the way Montana does the taxing of new structures. **Dolores Cooney** said this adds a second dimension to the way Montana assesses today. It does not remove the January 1 general assessment date or the market value provisions in statute. There is a conflict with a use or occupancy test. **REP. WAITSCHIES** asked how the Department would handle taxing on completion versus value. **Dolores Cooney** said they would have to wait to see what the bill would do upon passage.

REP. DEVLIN asked if this bill would mean an expansion of the appeal dates and a need for changes in law in order to accommodate this. **Greg Thornquist, Chairman, State Tax Appeal Board**, said they may have to look at expanding the county tax appeal board sessions if the appeal provisions are expanded. At the present time, if the board is not in session and an appeal is filed, that appeal can be held over until the following year. A problem that may occur is that when the board does go back into session, that structure probably has been completed, and therefore the evidence may be somewhat tainted.

REP. BALLYEAT asked if the sponsor agreed that if people are going to be taxed at the front end they should also be given an allowance at the back end. **REP. FACEY** said yes. **REP. BALLYEAT** asked if the sponsor agreed that properties depreciate throughout a year. **REP. FACEY** said he did not know a proper answer. **REP. BALLYEAT** asked if the sponsor would agree to an amendment that said as a building depreciates throughout the year the value could be adjusted downward throughout the year. **REP. FACEY** said this committee could do anything they wanted to with this bill.

REP. FORRESTER asked if the sponsor agrees that depreciation has nothing to do with this bill. **REP. FACEY** said he does.

REP. BALES asked if Section 4 of the bill might accelerate the taxes in that they are due 30 days after notification. **Dolores Cooney** said this section is a different standard than they would hold the properties assessed as of January 1. There are two classes here. **REP. BALES** asked if people are being asked to pay their taxes sooner on new property. **Dolores Cooney** said this is right and there are two different ways they would be assessing and the county collecting.

CHAIRMAN STORY asked if Section 1 applies to property not already on the rolls as of January 1 and not to partial construction. **Dolores Cooney** said this is confusing and would require clarification. If a house was 30% complete as of January 1 and finished in July, under Representative Story's interpretation it would not be put on the tax rolls at full value. If a house was started in February and finished in July, they would put that house at 100% of value. **CHAIRMAN STORY** asked if under a Supreme Court ruling saying you cannot tax a value that is not there that when values on properties drop these adjustments have to be made. **Joe Mazurek** said he is not familiar with that case. **CHAIRMAN STORY** asked if Section 5 requiring the treasurer to immediately disburse the money after collection is common practice in counties. **Gordon Morris** said right now property taxes are collected in November and May and the taxes are distributed then across the matrix. In terms of the 30-day provision in the bill, there needs to be an amendment saying the supplemental amount would be added to the November tax statement and subsequently May tax statement.

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 28.9}

REP. FACEY said the underlying philosophies of the bill are good in terms of allowing cities and counties to collect for services they are delivering. There are some good amendments to clarify the bill.

Information from the Department of Revenue was handed out regarding HB 381. **EXHIBIT(tah25a04)**

EXECUTIVE ACTION ON HB 205

Motion: **REP. ERICKSON** moved that **HB 205 DO PASS.**

Discussion: **REP. ERICKSON** said the bill would give \$11.5 million to education with increases in taxes. Increases in

tuition will be taxing our young people if this bill does not pass. **REP. ESP** said during testimony and discussion at the hearing it was said there are better ways to do this than what is proposed in the bill, and he agrees with this. Funding education should be more broad and not done with specialized taxes and programs. He opposes the bill. **REP. BALLYEAT** said targeted taxation such as those included in this bill, even though it might be small in terms of total dollars generated, has a major impact on the people hit by this target. He gave examples and opposes the bill. **REP. WANZENRIED** said education needs more money now. This is probably not good tax policy, but neither is ignoring the demands that exist. **REP. DALE** said this is not good tax policy, and the legislature's task is to look at long term. **REP. BRANAE** said this bill reflects the desperation that the education community feels they are in. There are some questions about the bill, but it is an attempt to help education. **REP. ERICKSON** said he agrees this is bad tax policy, but these are desperate times. By increasing just the cigarette tax, Montana could fund higher education and K-12. This would at least be a focused tax for education. **REP. BALLYEAT** asked if there were some specific amendments to offer for the bill. **REP. ERICKSON** said no.

Motion/Vote: **REP. BALLYEAT** moved that **HB 205 BE TABLED**. Motion carried 13-7 with Branae, Carney, Cyr, Erickson, Laslovich, Schmidt, and Wanzenried voting no.

ADJOURNMENT

Adjournment: 10:35 A.M.

REP. BOB STORY, Chairman

RHONDA VAN METER, Secretary

BS/RV

EXHIBIT (tah25aad)